

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:10-00070-02

DANNY FORTUNE

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On June 30, 2015, the United States of America appeared by Steven I. Loew, Assistant United States Attorney, and the defendant, Danny Fortune, appeared in person and by his counsel, Wesley P. Page, for a hearing on the petition on supervised release and amendment thereto submitted by United States Probation Officer Amy Berry-Richmond. The defendant commenced a three-year term of supervised release in this action on March 3, 2014, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on January 21, 2011.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant committed the state offense of domestic battery on August 31, 2014, as evidenced by his plea of no contest in Raleigh County Magistrate Court on October 20, 2014, for which he was ordered to pay court costs; (2) the defendant committed the state offense of petit larceny on November 10, 2014, as evidenced by his plea of guilty in Fayette County Magistrate Court on May 28, 2015, for which he was sentenced to six months custody, a fine and court costs; (3) the defendant used and possessed controlled substances as evidenced by a positive urine specimen submitted by him on August 15, 2014, for cocaine and marijuana, and on August 26, 2014, for cocaine, the defendant having signed a written admission to his use of cocaine and marijuana on August 15, 2014; (4) the defendant failed to appear for urine screens as directed on October 14 and November 10, 2014; and (5) the defendant committed the state offense of battery on a government official, the defendant having been charged with three counts on June 11, 2015, for assaulting three correctional officers at the South Central Regional Jail, as evidenced by his stipulation on

the record of the hearing that the government possesses sufficient proof to prove the offenses by a preponderance of the evidence; all as admitted by the defendant on the record of the hearing with the exception of (5) as noted above, and all as set forth in the petition on supervised release and amendment thereto.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of FIFTEEN (15) MONTHS, to be followed by a term of twenty-one (21)

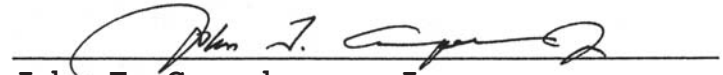
months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he participate in an anger management program as directed by the probation officer.

The defendant was remanded to the custody of the United States Marshal.

Recommendation: The court recommends that the defendant be given credit for time served from May 10, 2015, through June 2, 2015, at which time he was taken into federal custody, inasmuch as that time does not appear to have been credited towards any other sentence. The court notes that the defendant was in state custody from November 10, 2014, until he was sentenced on May 28, 2015, to a six-month term of imprisonment, which term would have expired on or about May 9, 2015.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: July 7, 2015


John T. Copenhaver, Jr.
United States District Judge